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TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
May 26, 2009**

Present: Commissioners Lythgoe, Weber, and Kirsch. Harold Stepper, Jefferson Co. Planner; Mike Hoffman, Jefferson Co. Planning Dept.; Joe Carter, Jefferson Co. Road/Solid Waste Supervisor; Matt Johnson, Jefferson Co. Attorney; Joe Schmaus; Chris Laity, Great West Engineering; Ken Frost, HS&G; Chad Brown, HS&G; Pat Calnan, TMK Construction.

MINUTES

Commissioner Weber moved to adopt the minutes of April 28, 2009. Commissioner Kirsch seconded. The motion carried.

Commissioner Weber moved to adopt the minutes of May 12, 2009. Commissioner Lythgoe seconded. The motion carried.

CALENDAR REVIEW

- 5/26 Forest Park RSID/RMD - 6:30 p.m.
- 5/27 Meeting with Tara Mastel - 12:30 p.m.
JLDC - 2:00 p.m.
Mining Assoc. at Fairmont - 6:00 p.m.
- 5/28 Salary Compensation Meeting - 2:00 p.m.
- 6/2 Meeting with Gary Hablutzel / Insurance renewal - 9:30 a.m.
- 6/3 Library Board in Courtroom - 4:00 p.m.
- 6/4 Library Subcommittee at Clancy Library - 6:00 p.m.
- 6/5 MACo Dist Meeting in Dillon - 10:00 a.m.

COMMISSION REPORTS

Zoning Commission Meeting

Commissioner Lythgoe reported that he and Commissioners Weber and Kirsch attended the Zoning Commission Meeting Thursday the 21st. He said they had accomplished a lot and were down to definitions and were getting to the heart of the zoning issues.

Commissioner Lythgoe reported that Joe Carter attended the meeting at MDT on the second phase of State Highway 69. He commented that they are not milling.

Commissioner Weber reported that Tuesday the 18th at 6:00 p.m. he attended the Solid Waste meeting. He said the budget is getting crunched hard because of tires and the expense of digging new holes and burying them. The Board is considering a fee for disposal of tires and also the increased amount of woody waste (yard waste) which includes beetle kill being brought into the transfer sites. Public Meetings regarding the fee issues will be scheduled for June 23, 24, and 25th starting in MT City, then Boulder, then Whitehall.

Commissioner Weber reported that he did a walk through the Clancy Library with an Environmental Engineer to have the library checked for structural soundness, mold, and bearing walls that might need to be moved if the site were to be expanded.

Commissioner Weber reported that he attended the N. Metal Mines Committee meeting with Commissioner Kirsch on Friday the 21st. He attended because Tom Harrington was not available and he had experience with the S. Metal Mines Committee. He attended for reference purposes.

Commissioner Kirsch reported that Tuesday 19th he attended the DUI Task Force meeting where some grants were presented to young recipients.

Commissioner Kirsch reported that on Friday the 21st at the N. Metal Mines Committee meeting they worked hard at the all day meeting to decide the recipients of the N. Metal Mines Grants. He thought the process went well and that the decisions were sound. He said he was looking forward to the awarding of the grants to the successful applicants.

CORRESPONDENCE

Commissioner Lythgoe presented correspondence from North West Insurance Group, for renewal of airport insurance. Commissioner Lythgoe signed the document.

Commissioner Lythgoe presented and read aloud a workshop flyer for Western Forest Management Communities, to be held Thurs. June 18th, and Fri. June 19th, in Kalispell. It was decided that the Commissioners could not attend due to conflicts in scheduling.

Carl Purdy received an email regarding the responsibility for upkeep and care of the Basin Cemetery, and it was forwarded onto the Commission. Commissioner Lythgoe read the email aloud. Commissioner Kirsch reported that there is no one responsible and everyone takes care of their own. There is no Cemetery Board and it is not the County's responsibility. It was decided that Commissioner Kirsch should respond to the inquiring party.

Commissioner Lythgoe presented a letter from David Roskelley who owns property in Montana City Ranches, Lot 6. He reported that Harold Stepper, Ken Vivrette, and he had met with Mr. Roskelley, and discussed the issues of the street signs, and mail center not being up, the cul-de-sac radius, the condition of the roads. His concern is that he has paid his taxes under protest because he doesn't feel the value that was represented would be done in final plat, has been done. Commissioner Lythgoe did pass the letter onto Matt, Jefferson Co. Attorney, and it was discussed

what kind of responsibility the County has after final plat, which is none, or should the County have after final plat. He asked that the matter be agendaized to discuss whether the County should become a 3rd party to the covenants, with some policing power, and whether or not we should or want to get involved. It was clarified that it would be a general discussion but that Matt would look into this particular situation.

SUBDIVISION REVIEW

Request for Extension - Amended Plat, Lot 5 Flintlock Minor - Montana City

Mike Hoffman presented the Commission with documents then addressed the Commission. Mike presented his staff report for the request for extension on this one lot-split minor subdivision located approximately 1.5 miles north-east of Montana City, Montana. The parcel contains 10.47 acres and it is proposed to split the parcel into two tracts ranging in size from 5.00 acres to 5.47 acres. Under Findings of Fact Mike read item 12. The Jefferson County Planning Dept. received a request by the developers representative for a one-year time extension of the Preliminary Plat approval granted by the Commission on June 17, 2008. Mike addressed under Conditions of Approval item 1. The developer will be granted a one-year extension of the Preliminary Plat approval, which will expire on June 17, 2010. Mike stated that those were the only changes to the staff report to accommodate the extension. It was the recommendation of the Planning Dept. that the extension be granted.

Commissioner Weber made a motion to grant the request for the time extension of the preliminary plat recommendation for the amended plat lot 5 of Flintlock Minor subdivision. Commissioner Kirsch seconded. The motion carried. The documents were signed by the Commission.

Request for variance for Sheep Mountain minors 1, 2, 3, and 4 - Clancy

Mike Hoffman distributed documents to the Commission and addressed the Commission. Mike gave a breakdown of the background report stating that items 1, 2, and 3 are identical to last years request but that items 4, 5, and 6 had been newly added. He read those items:

#4 - A variance to allow the newly constructed road network lying solely within the subdivision to be designated as private easement on the final plat.

#5 - A variance to allow the gravel content on the crushed surface course to be at a depth of 5" of 1 ½" or ¾" at 95% sieve content rather than 6" of crushed surface course as specified in the Jefferson County Road Standards.

#6 - A variance to allow back slope of the road course on the uphill side to deviate from the Jefferson County Road Standard. The in-slope, including those on the downhill side will meet county standard.

Mike then read the Planning Department's recommendation relating to the Conditions of Approval in item 2. pertaining to those new variance requests as follows:

Finished crushed surface course will be 5" of either ¾" or 1 ½" crushed aggregate at 95% sieve content. Roads lying solely within the subdivisions parcels will be designated as private easement on the final plat. As they existed prior to this subdivision application, all roads, trails, or easements traversing across BLM properties with a public designation

will remain public. Back slopes will be allowed to deviate from county road standards, on the uphill side. Road in-slopes, particularly the downhill side, will meet county standard.

Mike said that after conversations with Mr. Frazier he still had concerns about the base core. Commissioner Weber asked what those concerns where. Mike stated that he had visited the site within the last month and there were culverts that don't have daylight showing through them and that he would recommend to the developer that he at least properly prepare the base core prior to going forward with any finish work on the road to include gravel. He thought it premature to put gravel on a base core that wouldn't meet standard at the final plat.

Commissioner Weber then read aloud item #2. A variance to Jefferson County Road Standards (Maximum Grades hilly terrain - to allow for the road grade to exceed the 10% gradient for hilly terrain, not to exceed 12% (+ or -) at any location within Sheep Mountain Road, Big Horn Drive and Ram Rock Road as indicated on Exhibit A, as submitted by DBEC Inc. Stamped drawings dated 08/04/08. He then asked Mike to clarify the meaning of + or -. Mike clarified that from the drawings they based the request on, the engineer had put the + on the uphill shots and the - on the downhill shots and he had utilized that in the staff report. Commissioner Weber stated then for further clarification that it didn't mean 12% + or - percentage wise but + for the uphill side and - for the downhill side. Mike concurred. Commissioner Weber asked if it were true that the subdivision regulations stated that all roads will be designated as public access roads in a subdivision. Mike replied that they may need further input by the county attorney but that has been the standard and the policy and the County position that those roads are to become public. Commissioner Weber asked per Mike's knowledge had the County ever deviated from that position. Mike responded that the County has not. Commissioner Weber asked if it were not also the County's policy not to have gated communities, and Mike responded that in his experience working for the County he had never seen it done.

Commissioner Weber then asked if the use of Ohio Gulch Rd. is considered public use (access). Mike responded that they do have in the file an easement from Mr. Marks through Mr. Frazier but he couldn't speak as to the designation of that particular portion of road. Mike said the concern of the Planning Dept. was that they have a second plan for ingress, egress, in case of an emergency, and they do have that.

Commissioner Weber went on to say that he was uncomfortable with the language of 1 1/2" or 3/4" sieve in that it is a very wide range of gravel and to not designate it one or the other seemed wrong to him. He stated that 3/4" of course meets 1 1/2" standard or spec but 1 1/2" doesn't meet 3/4". He was not comfortable with either or for something that is twice as large as the other. He said he didn't understand why they didn't just ask for 1 1/2" if that's the variance they are asking for.

Joe Schmaus addressed the Commission and stated that to save everybody some time they would just use 3/4". Commissioner Kirsch asked at what depth the 3/4" would be. Joe stated that the road right of way from BLM specifies 4", but that the County spec was 6". Joe commented that it would be great if it could be dropped back to save some hardship for that 1 1/2 mile of public access road. Commissioner Weber asked if in the right of way grant from BLM did it say they needed to meet County specs? Joe's answer to that was yes that it was specifically stated that the roads would meet Jefferson County Road Standards but that right of way grant had come about

at the request of Mr. Frazier and himself. He said the reason for that was, at the time when they first started work on the roads up there they didn't know what they were going to run into so they went through the road regs. and they said they could use AASHTO requirements. Joe said that the first set of prints were designed at 16% grade to meet AASHTO standards, but in the prints that are in now they cut everything to get away from that, but that their interpretation of the regs. was that they could use AASHTO so they just went with that. Joe stated that now they have done a lot more than what AASHTO required and that they tried to meet all if not as much of the County regulations as possible constructing that road. He said there are a few problems with some back slope issues and things like that as a result of their variance requests. But the underlying factor about the gravel is that BLM specification is 4" and the County does say 6" so they are at the County's mercy, and they are requesting that some of that get dropped back, saving some hardship on the expense of that 1 ½ mile of road.

Commissioner Weber asked Joe for his definition of + or - as it related to 12% + or - in Background #2. Joe stated that their position is that means 12% + or - as far as there is some variance there and they have split hairs with the Planning Dept., Road Dept, and Deputy County Attorney Office over what exactly that means. He pointed out that they are very close in a lot of places and that Great West actually went out with a transit and shot the grades and they are even closer than the original December letter indicated. Joe stated that there are a set of grades that are awfully close together coming up one hilly stretch and that is the main problem for Sheep Mountain Rd., and then the back hill they knew they had to fill anyway. Joe said they interpreted that to mean exactly what it says, 12% + or - and it has been argued with Mike about the grade thing whose says it is + to go uphill and - to go downhill, but what if you go to the end of the road and turn around and come back the other way. So there was some confusion on the part of the variance for + or - and where they are at today and the tolerance of being 1/10th of 1%.

They were granted a variance that Mr Frazier said please remove or clarify and I will sign it. They were granted that variance which is a variance to the very standard that the Planning Dept. is trying to hold them to at a straight 12%, which he believes to be unfair. So Joe agreed that they are at odds about that. There is one grade in particular that is going to take more blasting to get down to that.

Joe stated that if at the least they could get some leniency or come to some conclusion here today, because he is tired of coming here and talking about this development. Joe stated as far as what does + or - mean he has been asked that question before and gotten 10 different answers from 10 different people, and according to some engineers that could mean a lot or as high as you want to go. Because in the original variance it didn't define the policy and he doesn't think it is fair of the County to go back to the Road Standards that they got a variance to define that 1/10th of 1%. He said that last year you guys sat right here and agreed that they did a hell of a job, even your own Planner and Road Boss.

Joe said they have attempted to do everything they can do within the budget but that it's getting over their heads at this time. He commented on the fact that the County is even requiring them to do that 1 ½ mile of public road that leads to the development, but it's not on their private property. Joe stressed that they need to continue or somehow get back on the track of working together, and he recognized that they are at odds over certain issues, but everyone wants to finish this. He realized that public safety is an obligation for the County but to

him that is debatable. His question was where were public safety concerns when BLM built a road 12' wide?

Commissioner Lythgoe interrupted with a question. He addressed Joe Carter and asked about gravel depths on this road talking about base and also about finish, how much base and how much finish? Joe Carter stated that currently they now have 1 ½" on a good portion of the road but they don't have enough to finish that job with that material, but that would allow them to cap that off with 5" of ¾" giving them 6" of material. Commissioner Lythgoe asked if that meant base and Joe responded of surface course. He clarified that they don't really need a base material because they already have compaction of the material up there. He said they jumped the gun when they started putting that material down last year that met a base spec but didn't meet a crushed surface spec, so they are at the point now if they get a surface course on there they could just go over the top of what they've already put down. He would recommend that the Commission allow them to go with 5" instead of 6" of ¾". Commissioner Lythgoe asked what the County Road Standard required as a base. Joe replied that it depends on the requirement of the design. Commissioner Lythgoe asked Joe if he was comfortable with this base, and Joe said he was, and it was decided that the Planning Dept. was also.

Commissioner Lythgoe brought the topic back to the designation of the roads within the subdivision. He clarified that the County has never allowed these roads to be designated as private without public access and he stated he has a problem with changing that. He stated he didn't see why they were requesting private easement roads, in that they are private roads, but they do have public access, becoming public roads as a result of becoming a subdivision. He clarified again that they were not County roads but public roads.

Joe Schmaus addressed the Commission stating that he had a letter from the County Attorney's office stating that the subdivision regulations say the roads can be dedicated to the public or they can remain to be held private by the developer for the development, and that they don't have to be dedicated to the public. Joe said that didn't mean they weren't going to let UPS or the Post Master in but they can still hold those roads within the development as private and that is in the subdivision regulations. He pointed out that there is an "or" in that statement.

Matt Johnson, Jefferson County Attorney, came forward and spoke, stating that was correct in the subdivision regulations, but that it was up to the Commission to grant the variance on that now because generally when somebody does a preliminary plat they would inform you of their intent to have a private gated community verses a public community.

Commissioner Lythgoe asked Joe Schmaus if their intention was to have a private gated community, and Joe answered that no it was not. He stated that their only intent was to keep OHV traffic out of the community which is causing a problem. The true intent in keeping it private was to place a sign at one end of the subdivision that says private, property homeowners only. Commissioner Lythgoe said that he had a problem with that particular request. Joe said that he didn't need a variance on that because they never wrote a request for it, they only told Mike that was what they were going to do, and the regulations specifically state that they are allowed to do that without getting permission. It says that they can do one or the other.

Commissioner Lythgoe said that he would have to ask Matt or Mike because he didn't know if

that decision was theirs or the Commissions (ours) to make and that his interpretation is that decision is the Commissions (ours). He then asked Matt if he had an opinion on that. It was Commissioner Weber's suggestion to look at the preliminary plat to see if it was designated.

Mike then approached the Commission with information that the road prior to the application is not the way it previously existed, it was altered by the developer in the course of improving or attempting to improve the road, and we don't have a survey to show the center line of that road as it now exists. Mike said his point is that if the road is designated private that the public may not have the same access to Ohio Gulch Rd. and trails beyond the subdivision.

There was discussion about whether the designation of public access would have been stated in the preliminary plat and Joe Schmaus suggested he thought the preliminary plat approval states that at the final plat you can choose to do one or the other. Commissioner Lythgoe disagreed. Joe reiterated that the regs. say that the developer can dedicate the road. Again Commissioner Lythgoe disagreed. Joe asked if anyone had a copy of the standards.

Harold Stepper approached the Commission. He stated that one of the things we are looking at is that if you look at the configuration of all four (4) of these subdivisions and the way they interact with each other there is a sliver of BLM land right in the middle of them. He stated that you can not cut off public access to Federal ground. Harold made another statement concerning the gravel as we laid that down we still have some grade issues out there and he wasn't comfortable with not being able to see daylight through the pipes. He thought we need to get those functioning first before we lay a course of gravel down and get this thing compacted. Commissioner Lythgoe agreed but didn't feel that was the County's issue, but that it is the developers issue. He stated that if it comes down to that and he comes in for final plat and that is still an issue then he's not going to get final plat.

Commissioner Lythgoe stated he felt it would be very unusual if that language were in your preliminary or final plat, that you could choose whether it was going to be public or private. Joe stated that if it's not in the preliminary plat approval then it's in the regulations themselves that a person can choose to hold them private or dedicate them to the public. Commissioner Lythgoe stated that choice was potentially made in the preliminary plat, but he doesn't know that because he didn't have the preliminary plat in front of him, but he would be guessing that historically what has been in preliminary plats is that those roads are designated as public. Joe stated that as far as cutting off any access that isn't the case because the old road still connects all the BLM land from the west to the east. Joe said he didn't know what to say about the issue of private or public. He said he has a copy of the regs. but obviously he hadn't brought them with him. Commissioner Lythgoe then asked Harold and Mike if they had a copy. They did not.

There was more discussion regarding the 12% + or -. And then Commissioner Lythgoe asked for clarification on the number of variances they were dealing with. The answer was 3 variances, numbers 4, 5, & 6. Harold asked to clear up the issue of public access easement issue. He did happen to have Sheep Mountain # 1 with him and though he didn't have #2, Mike did have #'s 3 & 4. He continued that on the plat it states Public Access Easement - We hereby establish the public access easement as shown and described in this plat. Road way maintenance shall be the responsibility of the private land owners utilizing Sheep Mountain Rd. for access to their property. So it is pretty well stated on the plat that there is public access. Joe Schmaus

commented then that document hadn't even been recorded, and wouldn't they have to look at the road standards or the subdivision standards. He said he'd spoken to Dennis Lay about that and he said those things could be changed. Commissioner Weber clarified that they couldn't be changed other than through a variance procedure. The plat is what gives you your rights to do a subdivision of land and the responsibility you have within that are laid out in the preliminary plat. The only way to change that is through a variance request.

Commissioner Lythgoe recommended that they take each item one at a time. Commissioner Kirsch then asked Joe Carter his opinion about the road going up through BLM and the 4" and 6" difference in base depth required and also what is the greatest percentage of grade you have seen up there? Joe stated that they should build the road to Jefferson County standards whether it goes through BLM land or not. He would recommend that they go with the 6" rather than the 4". As to the highest grade it was 15 ½ % in station 60 to 62 , 200' of that, and in several spots there was 13%. On the Ram Rock Ridge Rd. there is a grade of 15% over 500' long. So that one definitely needs work on it. Joe felt that on Sheep Mountain Rd. if they went back up there and did some work on it they could get to standard. They are almost there but they need to fine tune it and he recommended that the County hold them to that.

Commissioner Weber stated that before motions were made there were a couple things he thought they needed to think about for language on these variances. In #1 the per AASHTO for geometric design are very low volume local roads is being used strictly on those corners or the curves that are being designated in #1 so if we added something to the tune of 'AASHTO guidelines as applies to these curves only', that way your not trying to take the rest of the AASHTO standards against the road standards of Jefferson County against the road standards of BLM but it strictly for the speeds on those corners. #2 we simply strike + or - so it would read 'not to exceed the 12% at any location within Sheep Mountain Rd.'. Not mattering if it is up or down. #4 I think we strike completely. The intent of that road was originally designed and built according to Joe Carter by the BLM for OHV access, and plunking a private set of roads in the middle of that OHV access would be detrimental to our relationship with BLM and the public. #5 I think if we just allow 5" of ¾" crushed surface course meets what they are attempting to accomplish which is continuing to use their 1 ½" that is already up there as the base course and then provides 5" on top of that of ¾" crushed which is our standard and it would give us a total of 6" of material they've applied. Although the first inch will be that 1 ½" minus the 5" would probably meet the intent of our regulations and meet the intent of what they were trying to fix since they started with the 1 ½". He stated he thought if they changed those items that we would be in compliance with our own previous variances and what we've been trying to accomplish and I think we meet most of what they are asking us to accomplish. Joe Carter added a clarification that the 5" should read 5" compacted.

Commissioner Lythgoe asked if there was any further discussion amongst the Commissioners, and there was not. Mike addressed the Commission asking if they would be leaving #6 as is. Commissioner Weber explained the back slope is what comes off of the mountain and the in-slope comes up into our road and we're saying we're not going to worry about the 3% or whatever that back slope is supposed to be in our regulations, but the in slope into our road will meet standard.

Joe Schmaus spoke saying that this variance didn't exactly match what he and Mr. Frazier had

asked, for a variance on both slopes. He explained the difficulties they were facing i.e. with terrain and expense, going out after thinking they were finished with the road, hauling in extra fill to get the exact slope, that strict adherence to the standards is a hardship, with how the slopes are and with the 60' right of way they just don't have enough room, and they can't encroach any further on BLM. He asked again for some variance on both the slopes.

Commissioner Weber asked about Mr. Schmaus's research on the slopes looking at them on the ground, and asked what is it he thought they can meet and what is it they can't meet? Joe said I would like to go with a lot of those probably 2 to 1 rather than 3 to 1 but there are a few that are probably going to be more like 1.5 to 1. Commissioner Weber asked if that is what they wanted 1.5 to 1, and Joe wasn't able to give a definitive answer to that so Commissioner Weber asked what language Joe would like #6 to read. Commissioner Weber read aloud #6 and Joe said could they just insert in the first sentence - to allow downhill and back slopes - a variance to allow back slopes and fore slopes downhill side to deviate from Jefferson County Road Standards - recommended that they allow us to deviate on the uphill side - deviate on both sides - and work with you and Joe to get something acceptable.

Commissioner Weber asked how much of an impact is this going to have on public safety? Joe Carter said that there were going to be some public safety concerns. He stated that he had met with Joe Schmaus up there and told him they were almost there, but to extend their pipe out a little bit farther and fill in so if a car slides over it isn't going to roll over, and that's an example of public safety. Joe said he would like them put out the effort to get their slopes closer to 2 ½ to 1 or 3 to 1. He said there were only a few spots and that they had identified them. He also mentioned again extending the pipe.

Commissioner Weber asked Joe Carter if he would feel comfortable putting a number on the variance that we allow for the in slope and the back slope. Joe responded, that they give them their variance on their back slopes because of the mountainous terrain but he would like to see the in-slopes at least a minimum of 2 to 1 (correction) one 2 ½ to 1, and the one 1 ½ to 1 Joe Schmaus said that all he was asking is that Joe will kind of work with us and mentioned mitigating the safety concerns with a guard rail. He stressed again the hardship of getting every slope along that road to standard. There was a discussion regarding the expense of putting guard rails in as opposed to bringing the slopes to standard. Commissioner Weber asked Joe Carter then if bottom line he could live with 2 ½ to 1 on an in-slope. Joe said yes 2.5 to 1 would work.

Joe Schmaus said that they were requesting again that they just be left alone, they will do everything they can to get them cut down, but that they have already been seeded is the other thing. He said that Joe (Carter) had been all over that hill last year giving advice and never brought any of that up. Joe Schmaus said they concluded that we were ok so we went to gravel the road. He said the easiest way for them to get finished is to not create more work.

Commissioner Weber asked at who's request did # 6 come from. Mike stated that it was discussed with Mr. Frazier and Mr. Schmaus both. Mike worked at trying to formulate something with Mr. Carter that was acceptable but they didn't get into exact numbers. They felt the Commission would have to have discussion on that. Commissioner Lythgoe asked what the standard indicated for a back slope? Mike said 3 to 1 on a back slope. Mike clarified in reference to Mr. Schmaus's comment regarding Joe Carter being all over the subdivision, that he too had

been there and that at no time in the past two years has anyone representing the County given approval of anything up there. Mike said they want it done too but not at the expense of safety.

Joe Schmaus addressed the Commission saying that this was ridiculous and he might as well go home and call it a day. Commissioner Lythgoe said OK. Mr. Schmaus said that it was obvious that no one in this room was interested in helping them out. Commissioner Lythgoe stated that he thought they were making some progress. Joe Schmaus said regarding Mike's concerns, to go down on Holmes Gulch Rd. and S. Hills Rd. and he would show you slopes that are better than 3 to 1 and you guys just redid that road. He said that Joe Carter sat there last year and said that road was fine. On his way out of the courtroom, Mr. Schmaus then addressed Matt Johnson saying Matt had written him a letter that stated we could choose to keep those roads private or public, and we choose private.

Matt approached the Commission stating that he believed there was a letter sent. He said that when someone has a plan they bring it up to the Commission then you accept it or deny it through the subdivision process and unless the subdivision process says private it would be public.

Commissioner Lythgoe stated that he thought Commissioner Weber going over the language of each of the items was a good idea. He then recommended that Commissioner Weber make a motion.

Commissioner Weber made the motion that #1 have a sentence added to it that AASHTO guidelines as applies to these curves only. #2 we strike the + or - and it reads not to exceed 12% at any location. #4 we strike completely. #5 we allow 5" of 3/4" compacted, crushed surface course. And #6 read, a variance to allow back slope of the road course on the uphill side to deviate from the Jefferson County Road Standards, the in-slope including those on the downhill side will meet 2.5 to 1. Commissioner Lythgoe second that for discussion.

Commissioner Kirsch commented on the BLM adding 2 more inches to what they wanted. Commissioner Weber clarified that is their standard, it's not a variance, we applied our standard to the BLM right of way and they agreed to that in their right of way document. So they expect us to make that decision, not the BLM to make that decision. Commissioner Lythgoe stated that the rule to move forward with this was that the roads had to meet County standards. Mike then asked if we wanted to give Mr. Frazier a deadline to address this new request. Commissioner Weber reminded that he can't come for final plat until it's done. Commissioner Lythgoe said he needs to sign the first one and he needs to sign this variance, otherwise there are no variances allowed. And the sooner he gets that done the better off for him. Commissioner Lythgoe asked Matt if we can put a time frame on when he needs to have these signed.

Matt said history has shown that we don't know if they accept the variance or not unless they sign it and obviously we haven't had signature on the prior ones. This seems to be an amendment to the preliminary plat for what your doing so either it reverts to the original one or he should be given some deadline in which to sign. Commissioner Lythgoe reiterated the question, can we indicate to him that he needs to have both of these variance documents signed in 30 days? Matt responded that you pick a reasonable standard, I don't think 30 days is unreasonable in any sense but it gives them some time since they are the ones approaching the Commission. If they wish to

abide by them they would sign them otherwise it seems they would have to revert back to the engineers when it comes to final plat there is no argument I guess from anybody. Commissioner Lythgoe agreed and stated that will be a separate motion. He asked for any further discussion on Commissioner Weber's motion. Commissioner Lythgoe called for a vote and the motion carried.

Commissioner Lythgoe stated he would entertain a motion as it pertains to the variances. Commissioner Weber made a motion that they instruct Mr. Schmaus and Mr. Frazier to sign the variance requests no later than June 30, 2009, or all variances become null and void. Commissioner Lythgoe seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

OPEN BIDS FOR MOOLIGHT RIDGE RSID.

Chris Laity, Great West Engineering, brought the sealed bids forward.

Commissioner Weber opened and presented the first bid from TMK Construction LLC, 1 Jackson Cr. Rd., Clancy, MT 59634, Montana Contractor # 157136, Addendum #1 and addendum #2 are acknowledged, total bid price of \$163,400.50, Articles of Incorporation included, bond in the amount of \$17,000.

Next, from Bullock Contracting, P.O. Box 364, Boulder, MT 59632, Contractor # 13916, Addendum #1 and #2 included in bid, bid bond at 10% of the bid, total bid price \$142,366.00.

Next from Helena Sand and Gravel Inc., 2209 Airport Rd., P.O. Box 5960, Helena, MT 59604, acknowledges Addendums #1 and #2, Contractor # 53632, bond at 10% of the bid, total bid price \$135,135.00.

Commissioner Lythgoe directed that the bids would be given back to Chris, who would go back through them making sure all the bid requirements are met, and to return to the Commission with a recommendation. Commissioner Lythgoe then directed that his return should be agendized a 'Award construction bid for Moonlight Ridge RSID', two weeks out.

APPOINT BOARD MEMBERS

Commissioner Lythgoe read a letter from Barb Scott, requesting to sit on the Boulder Mosquito Control Board, from Ike Jesse requesting to sit on the DUI Task Force, and Amy Lagerquist requesting to sit on the Fair Board.

Commissioner Weber made a motion to appoint Barb Scott to the Mosquito Control Board, Ike Jesse to the DUI Task Force, and Amy Lagerquist to the Fair Board. Commissioner Lythgoe seconded. The motion carried.

JEFFERSON COUNTY FAIR BOARD BLEACHERS

Marilyn McCauly addressed the Commission regarding the Fair Boards bleacher project. She stated that whether or not they get any Metal Mines money or not they want to proceed with the project and to get the bleachers up by Fair time. She said the plans by the engineer should be done by the first of June. Commissioner Lythgoe asked what kind of money was she talking about, and Marilyn said right at \$50,000 to get them up for use. There was some discussion

concerning bids and it was suggested that she talk to Matt about it.

Commissioner Lythgoe then asked how long it would take to complete the construction of the project. Marilyn felt it would take 2 months starting the first of July. The concern was that the Commission wouldn't know what money is available through the budget by that time. Marilyn then asked if they could do an Intercap Loan. That was discussed. If that were a consideration the loan would come through the County. With the strong possibility of the Fair Board receiving \$10,000 from their Metal Mines application, the Rodeo and Fair Board having \$10,000 with in-kind of their own, the request from the County would be under \$34,000. Commissioner Lythgoe stated that there may be a couple more options for them to consider, and he would pursue those.

Commissioner Weber asked again when Marilyn thought she would have the numbers, and she said she should have a cost estimate by the first of June. There was discussion regarding what would be included in the 2nd and 3rd phases. Marilyn asked about if it should be included in the Fair Board budget and Commissioner Lythgoe said yes to include it and they would figure out a way to deal with it.

Marilyn asked how soon they would be hearing about the Metal Mines Grants, and Commissioner Weber explained that next week the Commission would accept the recommendations of the Metal Mines Board and then the week after that they will make the awards.

Commissioner Kirsch asked some questions about the 1st phase cement work and materials of construction. Marilyn explained those details that were also listed in the Metal Mines Grant application. They concurred that with the Metal Mines money and what the Fair Board has that the \$18,000 cost of the 1st phase would be covered. Commissioner Kirsch then asked if the work done placing the bleachers could be accomplished through volunteer work. Marilyn stated that she would prefer to have it done professionally because of public safety. Commissioner Lythgoe stressed again giving the Commission some time to figure things out.

OPPORTUNITY FOR PUBLIC COMMENT

Commissioner Lythgoe asked if there were any Public Comment and there was none.

MEETING ADJOURNED

Commissioner Kirsch made a motion to adjourn. Commissioner Weber seconded. The motion carried.

COM: ch

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER